



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 29, 1996

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR96-0825

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33744.

The City of Garland (the "city") received a request for a report filed through the Garland Police Department pertaining to an incident involving two juveniles. You have submitted a copy of the offense/incident report at issue for our review and you contend the requested information is excepted from required public disclosure under section 552.101 of the Government Code through section 51.14(d) of the Family Code. You also indicate that you have released the first page of the offense/incident report to the requestor.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. At the time the conduct occurred, the applicable law<sup>1</sup> in effect was Family Code section 51.14(d) which provided, in pertinent part:

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<sup>1</sup>Section 51.14(d) of the Family Code was repealed in the last legislative session. Act of May 27, 1995, 74th Leg., R.S., ch. 262, §§100, 105, 106, 1995 Tex. Sess. Law Serv. 2517, 2590-91 (Vernon). Family Code sections 58.007 and 58.106 essentially replaced section 51.14. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 53, 1995 Tex. Sess. Law Serv. 2517, 2552-53, 2555. However, these amendments apply only to conduct that occurs on or after January 1, 1996. *Id.* § 106, 1995 Tex. Sess. Law Serv. at 2591. "Conduct that occurs before January 1, 1996, is governed by the law in effect at the time the

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 52.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public.

Act of May 22, 1993, 73rd Leg., R.S., ch. 461, § 3, 1993 Tex. Gen. Laws 1850, 1852, *repealed by* Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex.Sess. Law Serv. 2517, 2590. In Open Records Decision No. 181 (1977) at 2, this office held that former section 51.14(d) excepts police reports which identify juveniles or furnish a basis for their identification. *See also* Open Records Decision No. 394 (1983) at 4-5 (applying former Fam.Code § 51.14(d) to "police blotter" and related information). You do not indicate that the offense report at issue is related to any charges for which the city seeks to transfer the juvenile or juveniles under section 52.02 of the Family Code<sup>2</sup> to a criminal court for prosecution, nor that article 15.27 of the Code of Criminal Procedure<sup>3</sup> applies. Moreover, we do not understand any of the exceptions to former section 51.14(d) to apply here. *See* Act of May 22, 1993, 73rd Leg., R.S., ch. 461 § 3, 1993 Tex. Gen. Laws 1850, 1852 (repealed 1995) (former Fam.Code § 51.14(d)(1), (2), (3)). Accordingly, we conclude that the city must withhold the requested information in its entirety under section 552.101 of the Government Code as information deemed confidential by law.<sup>4</sup>

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(Footnote continued)

conduct occurred, and that law is continued in effect for that purpose." *Id* The records submitted for our review concern conduct that occurred before January 1, 1996. Accordingly, we address your claims under section 51.14(d).

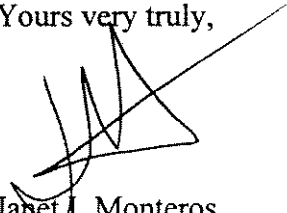
<sup>2</sup>Act of May 25, 1973, 63rd Leg., R.S., ch. 544, § 1, 1973 Tex. Gen. Laws 1460, 1476-77, *amended by* Act of May 19, 1975, 64th Leg., R.S., ch. 693, §§ 15-16, 1975 Gen. Laws 2152, 2156-57 (adding subsecs. (m), (j), (k), (l), *amended by* Act of May 8, 1987, 70th Leg., R.S., ch. 140, §§ 1-3, 1987 Tex. Gen. Laws 309 (amending subsecs.(a), (h), (j).

<sup>3</sup>Act of May 22, 1993, 73rd Leg., R.S., ch. 461, § 1, 1993 Tex. Gen. Laws 1850-51.

<sup>4</sup>It must also be noted that in *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied), the court addressed the applicability of the common-law privacy doctrine to files of an investigation of allegations of sexual harassment which contained individual witness statements, an affidavit by the individual accused of the misconduct responding to the allegations, and conclusions of the board of inquiry that conducted the investigation. *Ellen*, 840 S.W.2d at 525. In concluding, the *Ellen* court held that "the public did not possess a legitimate interest in the identities of the individual witnesses, nor the details of their personal statements beyond what is contained in the documents that have been ordered released." *Id*.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

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Ref.: ID# 33744

Enclosures: Submitted documents